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United States Code Annotated [Currentness](#)

Title 49. Transportation ([Refs & Annos](#))

Subtitle VII. Aviation Programs

Part A. Air Commerce and Safety ([Refs & Annos](#))

 [Subpart I.](#) General

 [Chapter 401.](#) General Provisions ([Refs & Annos](#))

TITLE IV--VICTIM COMPENSATION

"Sec. 401. Short title.

"This title [Title IV of this note] may be cited as the 'September 11th Victim Compensation Fund of 2001'.

"Sec. 402. Definitions.

"In this title [Title IV of this note], the following definitions apply:

"(1) **Air carrier.**--The term 'air carrier' means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term 'agent', as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after and commenced services no later than February 17, 2002, to provide such security, and had not been or are not debarred for any period within 6 months from that date.

"(2) **Air transportation.**--The term 'air transportation' means foreign air transportation, interstate air transportation, or the transportation of mail by aircraft.

"(3) **Aircraft manufacturer.**--The term 'aircraft manufacturer' means any entity that manufactured the aircraft or any parts or components of the aircraft involved in the terrorist related aircraft crashes of September 11, 2001, including employees and agents of that entity.

"(4) **Airport sponsor.**--The term 'airport sponsor' means the owner or operator of an airport (as defined in [section 40102 of title 49, United States Code](#)).

"(5) **Claimant.**--The term 'claimant' means an individual filing a claim for compensation under section 405(a)(1) [of this note].

"(6) **Collateral source.**--The term 'collateral source' means all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the terrorist-related aircraft crashes of September 11, 2001, **or debris removal**, including under the World Trade Center Health Program established under section 3001 of the Public Health Service Act [sic; probably should read 'section 3301 of the Public Health Service Act' which is classified to [42 U.S.C.A. § 300mm](#)], and payments made pursuant to the settlement of a civil action described in section 405(c)(3)(C)(iii) [this note].

"(7) Contractor and subcontractor.--The term 'contractor and subcontractor' means any contractor or subcontractor (at any tier of a subcontracting relationship), including any general contractor, construction manager, prime contractor, consultant, or any parent, subsidiary, associated or allied company, affiliated company, corporation, firm, organization, or joint venture thereof that participated in debris removal at any 9/11 crash site. Such term shall not include any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect.

"(8) Debris removal.--The term 'debris removal' means rescue and recovery efforts, removal of debris, cleanup, remediation, and response during the immediate aftermath of the terrorist-related aircraft crashes of September 11, 2001, with respect to a 9/11 crash site.

"(9) Economic loss.--The term 'economic loss' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

"(10) Eligible individual.--The term 'eligible individual' means an individual determined to be eligible for compensation under section 405(c) [of this note].

"(11) Immediate aftermath.--The term 'immediate aftermath' means any period beginning with the terrorist-related aircraft crashes of September 11, 2001, and ending on May 30, 2002.

"(12) Noneconomic losses.--The term 'noneconomic losses' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

"(13) Special Master.--The term 'Special Master' means the Special Master appointed under section 404(a) [of this note].

"(14) 9/11 crash site.--The term '9/11 crash site' means--

"(A) the World Trade Center site, Pentagon site, and Shanksville, Pennsylvania site;

"(B) the buildings or portions of buildings that were destroyed as a result of the terrorist-related aircraft crashes of September 11, 2001;

"(C) any area contiguous to a site of such crashes that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses (including the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured individuals); and

"(D) any area related to, or along, routes of debris removal, such as barges and Fresh Kills.

"Sec. 403. Purpose.

"It is the purpose of this title [Title IV of this note] to provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001.

"Sec. 404. Administration.

"(a) In general.--The Attorney General, acting through a Special Master appointed by the Attorney General, shall--

"(1) administer the compensation program established under this title [Title IV of this note];

"(2) promulgate all procedural and substantive rules for the administration of this title [Title IV of this note]; and

"(3) employ and supervise hearing officers and other administrative personnel to perform the duties of the Special Master under this title [this note].

"(b) Authorization of appropriations.--There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Master in carrying out this title [Title IV of this note].

"Sec. 405. Determination of eligibility for compensation.

"(a) Filing of claim.--

"(1) In general.--A claimant may file a claim for compensation under this title [this note] with the Special Master. The claim shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for compensation and the amount of compensation sought.

"(2) Claim form.--

"(A) In general.--The Special Master shall develop a claim form that claimants shall use when submitting claims under paragraph (1). The Special Master shall ensure that such form can be filed electronically, if determined to be practicable.

"(B) Contents.--The form developed under subparagraph (A) shall request--

"(i) information from the claimant concerning the physical harm that the claimant suffered, or in the case of a claim filed on behalf of a decedent information confirming the decedent's death, as a result of the terrorist-related aircraft crashes of September 11, 2001, **or debris removal** during the immediate aftermath;

"(ii) information from the claimant concerning any possible economic and noneconomic losses that the claimant suffered as a result of such crashes **or debris removal** during the immediate aftermath; and

"(iii) information regarding collateral sources of compensation the claimant has received or is entitled to receive as a result of such crashes **or debris removal** during the immediate aftermath.

"(3) Limitation.--

"(A) In general.--Except as provided by subparagraph (B), no claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 407(a) [this note].

"(B) Exception.--A claim may be filed under paragraph (1), in accordance with subsection (c)(3)(A)(i), by an individual (or by a personal representative on behalf of a deceased individual) during the period beginning on the date on which the regulations are updated under section 407(b) [this note] and ending on the date that is 5 years after the date on which such regulations are updated.

"(b) Review and determination.--

"(1) Review.--The Special Master shall review a claim submitted under subsection (a) and determine--

"(A) whether the claimant is an eligible individual under subsection (c);

"(B) With respect to a claimant determined to be an eligible individual--

"(i) the extent of the harm to the claimant, including any economic and noneconomic losses; and

"(ii) the amount of compensation to which the claimant is entitled based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

"(2) Negligence.--With respect to a claimant, the Special Master shall not consider negligence or any other theory of liability.

"(3) Determination.--Not later than 120 days after that date on which a claim is filed under subsection (a), the Special Master shall complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review. Such a determination shall be final and not subject to judicial review.

"(4) Rights of claimant.--A claimant in a review under paragraph (1) shall have--

"(A) the right to be represented by an attorney;

"(B) the right to present evidence, including the presentation of witnesses and documents; and

"(C) any other due process rights determined appropriate by the Special Master.

"(5) No punitive damages.--The Special Master may not include amounts for punitive damages in any compensation paid under a claim under this title [this note].

"(6) Collateral compensation.--The Special Master shall reduce the amount of compensation determined under paragraph (1)(B)(ii) by the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of the terrorist-related aircraft crashes of September 11, 2001.

"(c) Eligibility.--

"(1) In general.--A claimant shall be determined to be an eligible individual for purposes of this subsection if the Special Master determines that such claimant--

"(A) is an individual described in paragraph (2); and

"(B) meets the requirements of paragraph (3).

"(2) Individuals.--A claimant is an individual described in this paragraph if the claimant is--

"(A) An individual who--

"(i) was present at the World Trade Center, (New York, New York), the Pentagon (Arlington, Virginia), the site of the aircraft crash at Shanksville, Pennsylvania, or any other 9/11 crash site at the time, or in the immediate aftermath, of the terrorist-related aircraft crashes of September 11, 2001; and

"(ii) suffered physical harm or death as a result of such an air crash **or debris removal**;

"(B) an individual who was a member of the flight crew or a passenger on American Airlines flight 11 or 77 or United Airlines flight 93 or 175, except that an individual identified by the Attorney General to have been a participant or conspirator in the terrorist-related aircraft crashes of September 11, 2001, or a representative of such individual shall not be eligible to receive compensation under this title [Title IV of this note]; or

"(C) in the case of a decedent who is an individual described in subparagraph (A) or (B), the personal representative of the decedent who files a claim on behalf of the decedent.

"(3) Requirements.--

"(A) Requirements for filing claims during extended filing period.--

"(i) **Timing requirements for filing claims.--**An individual (or a personal representative on behalf of a deceased individual) may file a claim during the period described in subsection (a)(3)(B) as follows:

"(I) In the case that the Special Master determines the individual knew (or reasonably should have known) before the date specified in clause (iii) that the individual suffered a physical harm at a 9/11 crash site as a result of the terrorist-related aircraft crashes of September 11, 2001, or as a result of debris removal, and that the individual knew (or should have known) before such specified date that the individual was eligible to file a claim under this title [Title IV of this note], the individual may file a claim not later than the date that is 2 years after such specified date.

"(II) In the case that the Special Master determines the individual first knew (or reasonably should have known) on or after the date specified in clause (iii) that the individual suffered such a physical harm or that the individual first knew (or should have known) on or after such specified date that the individual was eligible to file a claim under this title [Title IV of this note], the individual may file a claim not later than the last day of the 2- year period beginning on the date the Special Master determines the individual first knew (or should have known) that the individual both suffered from such harm and was eligible to file a claim under this title [Title IV of this note].

"(ii) **Other eligibility requirements for filing claims.--**An individual may file a claim during the period described in subsection (a)(3)(B) only if--

"(I) the individual was treated by a medical professional for suffering from a physical harm described in clause (i)(I) within a reasonable time from the date of discovering such harm; and

"(II) the individual's physical harm is verified by contemporaneous medical records created by or at the direction of the medical professional who provided the medical care.

"(iii) **Date specified.--**The date specified in this clause is the date on which the regulations are updated under section 407(a) [this note].

"(B) **Single claim.--**Not more than one claim may be submitted under this title [Title IV of this note] by an individual or on behalf of a deceased individual.

"(C) Limitation on civil action.--

"(i) In general.--Upon the submission of a claim under this title [Title IV of this note], the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, or for damages arising from or related to debris removal. The preceding sentence does not apply to a civil action to recover collateral source obligations, or to a civil action against any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act.

"(ii) Pending actions.--In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title [Title IV of this note]--

"(I) during the period described in subsection (a)(3)(A) unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 407(a) [this note]; and

"(II) during the period described in subsection (a)(3)(B) unless such individual withdraws from such action by the date that is 90 days after the date on which the regulations are updated under section 407(b) [this note].

"(iii) Settled actions.--In the case of an individual who settled a civil action described in clause (i), such individual may not submit a claim under this title [Title IV of this note] unless such action was commenced after December 22, 2003, and a release of all claims in such action was tendered prior to the date on which the James Zadroga 9/11 Health and Compensation Act of 2010 [Pub.L. 111-347, Jan. 2, 2011, 124 Stat. 3623, enacting subchapter XXXI of chapter 6A of Title 42, [42 U.S.C.A. § 300mm et seq.](#), enacting chapter 50 of Title 26, [26 U.S.C.A. § 5000C](#), enacting provisions set out as notes under [26 U.S.C.A. § 5000C](#), and amending provisions set out in a note under this section, and [8 U.S.C.A. § 1101](#)] was enacted.

"Sec. 406. Payments to eligible individuals.

"(a) In general.--Subject to the limitations under subsection (d), not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under this title [Title IV of this note], the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

"(b) Payment authority.--This title [Title IV of this note] constitutes budget authority in advance of appropriations Acts in the amounts provided under subsection (d)(1) and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this title [Title IV of this note] subject to the limitations under subsection (d).

"(c) Additional funding.--

"(1) In general.--The Attorney General is authorized to accept such amounts as may be contributed by individuals, business concerns, or other entities to carry out this title [Title IV of this note], under such terms and conditions as the Attorney General may impose.

"(2) Use of separate account.--In making payments under this section, amounts contained in any account containing funds provided under paragraph (1) shall be used prior to using appropriated amounts.

"(d) Limitation.--

"(1) In general.--The total amount of Federal funds paid for compensation under this title [Title IV of this note], with respect to claims filed on or after the date on which the regulations are updated under section 407(b) [this note], shall not exceed \$2,775,000,000. Of such amounts, not to exceed \$875,000,000 shall be available to pay such claims during the 5-year period beginning on such date.

"(2) Pro-ration and payment of remaining claims.--

"(A) In general.--The Special Master shall ratably reduce the amount of compensation due claimants under this title [Title IV of this note] in a manner to ensure, to the extent possible, that--

"(i) all claimants who, before application of the limitation under the second sentence of paragraph (1), would have been determined to be entitled to a payment under this title [Title IV of this note] during such 5-year period, receive a payment during such period; and

"(ii) the total amount of all such payments made during such 5-year period do not exceed the amount available under the second sentence of paragraph (1) to pay claims during such period.

"(B) Payment of remainder of claim amounts.--In any case in which the amount of a claim is ratably reduced pursuant to subparagraph (A), on or after the first day after the 5-year period described in paragraph (1), but in no event later than 1 year after such 5-year period, the Special Master shall pay to the claimant the amount that is equal to the difference between--

"(i) the amount that the claimant would have been paid under this title [Title IV of this note] during such period without regard to the limitation under the second sentence of paragraph (1) applicable to such period; and

"(ii) the amount the claimant was paid under this title [Title IV of this note] during such period.

"(C) Termination.--Upon completion of all payments pursuant to this subsection, the Victim's Compensation Fund shall be permanently closed.

"(e) Attorney fees.--

"(1) In general.--Notwithstanding any contract, the representative of an individual may not charge, for services rendered in connection with the claim of an individual under this title [Title IV of this note], more than 10 percent of an award made under this title [Title IV of this note] on such claim.

"(2) Limitation.--

"(A) In general.--Except as provided in subparagraph (B), in the case of an individual who was charged a legal fee in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii) [this note], the representative of the individual may not charge any amount for compensation for services rendered in connection with a claim filed under this title [Title IV of this note].

"(B) Exception.--If the legal fee charged in connection with the settlement of a civil action described in section 405(c)(3)(C)(iii) [this note] of an individual is less than 10 percent of the aggregate amount of compensation awarded to such individual through such settlement, the representative of such individual may charge an amount for compensation for services rendered to the extent that such amount charged is not more than--

"(i) 10 percent of such aggregate amount through the settlement, minus

"(ii) the total amount of all legal fees charged for services rendered in connection with such settlement.

"(3) Discretion to lower fee.--In the event that the special master finds that the fee limit set by paragraph (1) or (2) provides excessive compensation for services rendered in connection with such claim, the Special Master may, in the discretion of the Special Master, award as reasonable compensation for services rendered an amount lesser than that permitted for in paragraph (1).

"Sec. 407. Regulations.

"(a) In general.--Not later than 90 days after the date of enactment of this Act [Sept. 22, 2001], the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out this title [Title IV of this note], including regulations with respect to--

"(1) forms to be used in submitting claims under this title [Title IV of this note];

"(2) the information to be included in such forms;

"(3) procedures for hearing and the presentation of evidence;

"(4) procedures to assist an individual in filing and pursuing claims under this title [Title IV of this note]; and

"(5) other matters determined appropriate by the Attorney General.

"(b) Updated regulations.--Not later than 180 days after the date of the enactment of the James Zadroga 9/11 Health and Compensation Act of 2010 [Jan. 2, 2011], the Special Master shall update the regulations promulgated under subsection (a) to the extent necessary to comply with the provisions of title II of such Act [Pub.L. 111-347, Title II, § 201 et seq., Jan. 2, 2011, 124 Stat. 3659, amending provisions set out in a note under this section].

"Sec. 408. Limitation on liability.

"(a) In general.--

"(1) Liability limited to insurance coverage.--Notwithstanding any other provision of law, liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity, arising from the terrorist-related aircraft crashes of September 11, 2001, against an air carrier, aircraft manufacturer, airport sponsor, or person with a property interest in the World Trade Center, on September 11, 2001, whether fee simple, leasehold or easement, direct or indirect, or their directors, officers, employees, or agents, shall not be in an amount greater than the limits of liability insurance coverage maintained by that air carrier, aircraft manufacturer, airport sponsor, or person.

"(2) Willful defaults on rebuilding obligation.--Paragraph (1) does not apply to any such person with a property interest in the World Trade Center if the Attorney General determines, after notice and an opportunity for a hearing on the record, that the person has defaulted willfully on a contractual obligation to rebuild, or assist in the rebuilding of, the World Trade Center.

"(3) Limitations on liability for New York City.--Liability for all claims, whether for compensatory or punitive damages or for contribution or indemnity arising from the terrorist-related aircraft crashes of September 11, 2001, against the City of New York shall not exceed the greater of the city's insurance coverage or \$350,000,000. If a claimant who is eligible to

seek compensation under section 405 of this Act [section 405 of this note], submits a claim under section 405 [of this note], the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001, including any such action against the City of New York. The preceding sentence does not apply to a civil action to recover collateral source obligations.

"(4) Liability for certain claims.--Notwithstanding any other provision of law, liability for all claims and actions (including claims or actions that have been previously resolved, that are currently pending, and that may be filed) for compensatory damages, contribution or indemnity, or any other form or type of relief, arising from or related to debris removal, against the City of New York, any entity (including the Port Authority of New York and New Jersey) with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect) and any contractors and subcontractors, shall not be in an amount that exceeds the sum of the following, as may be applicable:

"(A) The amount of funds of the WTC Captive Insurance Company, including the cumulative interest.

"(B) The amount of all available insurance identified in schedule 2 of the WTC Captive Insurance Company insurance policy.

"(C) As it relates to the limitation of liability of the City of New York, the amount that is the greater of the City of New York's insurance coverage or \$350,000,000. In determining the amount of the City's insurance coverage for purposes of the previous sentence, any amount described in subparagraphs (A) and (B) shall not be included.

"(D) As it relates to the limitation of liability of any entity, including the Port Authority of New York and New Jersey, with a property interest in the World Trade Center on September 11, 2001 (whether fee simple, leasehold or easement, or direct or indirect), the amount of all available liability insurance coverage maintained by any such entity.

"(E) As it relates to the limitation of liability of any individual contractor or subcontractor, the amount of all available liability insurance coverage maintained by such contractor or subcontractor on September 11, 2001.

"(5) Priority of claims payments.--Payments to plaintiffs who obtain a settlement or judgment with respect to a claim or action to which paragraph (4) applies, shall be paid solely from the following funds in the following order, as may be applicable:

"(A) The funds described in subparagraph (A) or (B) of paragraph (4).

"(B) If there are no funds available as described in subparagraph (A) or (B) of paragraph (4), the funds described in subparagraph (C) of such paragraph.

"(C) If there are no funds available as described in subparagraph (A), (B), or (C) of paragraph (4), the funds described in subparagraph (D) of such paragraph.

"(D) If there are no funds available as described in subparagraph (A), (B), (C), or (D) of paragraph (4), the funds described in subparagraph (E) of such paragraph.

"(6) Declaratory judgment actions and direct action.--Any claimant to a claim or action to which paragraph (4) applies may, with respect to such claim or action, either file an action for a declaratory judgment for insurance coverage or bring a direct action against the insurance company involved, except that no such action for declaratory judgment or direct action may be commenced until after the funds available in subparagraph (A), (B), (C), and (D) of paragraph (5) have been exhausted consistent with the order described in such paragraph for payment.

"(b) Federal cause of action.--

"(1) Availability of action.--There shall exist a Federal cause of action for damages arising out of the hijacking and subsequent crashes of American Airlines flights 11 and 77, and United Airlines flights 93 and 175, on September 11, 2001. Notwithstanding [section 40120\(c\) of title 49, United States Code](#) [[49 U.S.C.A. § 40120\(c\)](#)], this cause of action shall be the exclusive remedy for damages arising out of the hijacking and subsequent crashes of such flights.

"(2) Substantive law.--The substantive law for decision in any such suit shall be derived from the law, including choice of law principles, of the State in which the crash occurred unless such law is inconsistent with or preempted by Federal law.

"(3) Jurisdiction.--The United States District Court for the Southern District of New York shall have original and exclusive jurisdiction over all actions brought for any claim (including any claim for loss of property, personal injury, or death) resulting from or relating to the terrorist-related aircraft crashes of September 11, 2001.

"(4) Nationwide subpoenas.--

"(A) In general.--A subpoena requiring the attendance of a witness at trial or a hearing conducted under this section may be served at any place in the United States.

"(B) Rule of construction.--Nothing in this subsection is intended to diminish the authority of a court to quash or modify a subpoena for the reasons provided in clause (i), (iii), or (iv) of [subparagraph \(A\)](#) or [subparagraph \(B\) of rule 45\(c\)\(3\) of the Federal Rules of Civil Procedure](#)."

"(c) Exclusion.--Nothing in this section shall in any way limit any liability of any person who is a knowing participant in any conspiracy to hijack any aircraft or commit any terrorist act. Subsections (a) and (b) do not apply to civil actions to recover collateral source obligations.

"Sec. 409. Right of subrogation.

"The United States shall have the right of subrogation with respect to any claim paid by the United States under this title [Title IV of this note], subject to the limitations described in section 408 [of this note].